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Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the sustainable management of external fishing fleets, repealing Council Regulation
(EC) No 1006/2008

{SWD(2015) 276 final}
{SWD(2015) 279 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The Common Fisheries Policy (CFP) covers the conservation of marine biological resources and the management of fisheries and fleet exploiting those resources. It encompasses fishing activities carried out in Union waters as well as those carried out outside Union waters by Union fishing vessels.

Regulation (EC) No 1006/2008¹ (the 'FAR') deals with authorisations of Union vessels to fish outside Union waters and authorisations granted to third country fishing vessels to operate in Union waters. Together with the Control² and the IUU³ Regulations, it is one of the three implementing pillars of the CFP.

Reform of the CFP is enshrined in Regulation (EU) No 1380/2013⁴ (the 'Basic Regulation'). It promotes in particular a sustainable, ecosystem-based and precautionary approach to fisheries management, emphasising the coherence between its internal and external dimension. Union fishing activities outside Union waters should be based on the same principles and standards as those applicable under Union law in the area of the CFP. The Union should be able to monitor its fleet wherever it operates and whatever the framework. The current FAR Regulation needs to be revised to properly address the objectives of the new CFP and to provide consistency with the Control Regulation.

As an integral part of the CFP reform, the Commission proposed a revision to the FAR Regulation in its Communication on External Dimension of the CFP⁵ in 2011. It was supported by a European Parliament resolution adopted in 2012⁶.

The revision of the FAR is a REFIT initiative aimed at clarifying and simplifying the current provisions, in particular in terms of responsibilities at Union, national and operator level, as well as bringing the FAR in line with the Control Regulation.

Several developments at international level also support the need for a revision. The Union has endorsed the FAO International Plan of Action to prevent, deter and eliminate illegal, unreported and undeclared fishing (IPOA-IUU)⁷ adopted in 2001. The IPOA-IUU and the FAO Voluntary Guidelines for flag state performance⁸ endorsed in 2014 underlie the responsibility of the flag State to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems. The Voluntary Guidelines advocate that the flag State sets up an authorisation regime to ensure that no vessel is allowed to operate unless

¹ Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters (OJ L 286, 29.10.2008, p. 33).

² Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy (OJ L 343, 22.12.2009, p. 1–50).

³ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing (OJ L 286, 29.10.2008, p. 1–32).

⁴ Regulation (EU) No 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy (OJ L 354, 28.12.2013, p. 22).

⁵ COM(2011) 424 of 13.7.2011.

⁶ European Parliament resolution of 22 November 2012 on the external dimension of the Common Fisheries Policy (2011/2318(INI)).

⁷ <http://www.fao.org/fishery/ipoa-iuu/en>

⁸ COFI/2014/4.2 (§29).

authorised. They also recommend that the flag State and the coastal state grant an authorisation when the fishing activities take place under a fisheries access agreement or even outside such an agreement⁹. Finally, in April 2015, the International Tribunal for the Law of the Sea (ITLOS) delivered its advisory opinion on Illegal, Unreported and Unregulated (IUU) matters within the exclusive economic zones (EEZs) of the members of the Sub-Regional Fisheries Commission. ITLOS considers that a flag State's responsibility to prevent and/or repress IUU fishing activities within the EEZs of coastal states to be an obligation of 'due diligence'. ITLOS stresses the liability of the Union, and not its Member States, for any breach of the fisheries access agreements it has with coastal states.

- **Consistency with existing policy provisions in the policy area**

The FAR is one of the operational parts of CFP external policy as enshrined in Part VI of Regulation (EU) No 1380/2013 (the 'Basic Regulation'). It also complements the Control Regulation and its Commission Implementing Regulation (EU) No 404/2011¹⁰, which apply to all activities covered by the CFP carried out in Union waters or by Union fishing vessels. The FAR deals with authorisations of Union fishing vessels outside Union waters and of third country fishing vessels inside Union waters. Therefore, the FAR deals with authorisation while the Control Regulation and its Implementing Regulation deal with control and enforcement. This proposal aims to streamline the FAR with respect to the Control Regulation so that the latter applies *mutatis mutandis* to control and reporting aspects. Finally, since the FAR is aimed at allowing the Union to better monitor its external fleet, it will actively contribute to combatting illegal, unreported and unregulated fishing.

- **Consistency with other Union policies**

The Basic Regulation states that the Union 'should improve policy coherence of Union initiatives, with particular regard to environmental, trade and development activities and strengthen consistency of actions taken in the context of development cooperation and scientific, technical and economic cooperation'¹¹. By promoting the objectives of the CFP externally, in particular the sustainability of the Union's external fleet activities, the FAR is fully consistent with Union environmental and development policies.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

The proposal is based on Article 43(2) of the TFEU on establishing provisions necessary for the pursuit of the objectives of the CFP.

- **Subsidiarity**

The proposal deals with the management of authorisations of the Union fleet outside Union waters and of third country vessels in Union waters when carrying out fishing activities. It therefore forms part of the external dimension of the conservation of marine biological resources under the CFP, an exclusive competence of the Union, and so the subsidiarity principle does not apply in this context.

⁹ Idem (§§40 and 41).

¹⁰ Commission Implementing Regulation (EU) No 404/2011 of 8 April 2011 laying down detailed rules for the implementation of Council Regulation (EC) No 1224/2009 establishing a Community control system for ensuring compliance with the rules of the Common Fisheries Policy (OJ L 112, 30.4.2011, p. 1–153).

¹¹ Article 28.

- **Proportionality**

The proposal aims to reinforce the EU's capacity to monitor its fleet regardless of the framework under which it operates. It takes into account the need to strike a balance between more control of the Union fleet and limiting the workload for national and EU administrations. As the Impact Assessment shows, it would help to simplify the current system. However, the expected advantages clearly outweigh the efforts involved, particularly in terms of positive impact on the management of fishing resources. In this regard the provisions proposed are limited to what is necessary to achieve the objective, and do not entail disproportionate burden• Choice of instrument

As a regulation is directly applicable and binding on the Member States, it must contribute to the uniform application of the proposed rules throughout the Union, thus creating a level playing field for all EU operators involved in fishing activities outside EU waters.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

N/A

- **Stakeholder consultations**

A public consultation, based on a consultation document and a specific questionnaire, was held during the impact assessment process. This was followed by a series of technical meetings with the most affected Member States, i.e. those with the most significant external fleets. Furthermore, an extraordinary meeting of the Regional Advisory Council — Long Distance RAC — comprising representatives of the fishing industry and NGOs, was held to discuss the revision of the FAR.

These consultations enabled the Commission to get a better understanding of how the current system for managing the external fleet at national level operates, and have been instrumental in fine-tuning the current proposal. All groups of stakeholders, including Member States, ship-owners and NGOs, have been able to express their views and have demonstrated clear support for the objective of the proposal.

- **Collection and use of expertise**

N/A

- **Impact assessment**

An impact assessment has been prepared, alongside the legislative proposal, to consider possible alternative options, and assess and compare their impact. Several options have been considered:

Option 1: entails a limited amendment to the current regulation to ensure alignment with the Lisbon Treaty provisions.

Option 2: entails, in addition to option 1, developing guidelines for interpreting provisions which are not clear or precise enough. This would however leave out a number of objectives set out in the Basic Regulation.

Option 3: is based on merely amending the Regulation to address shortcomings, uncertainties and gaps in the current legislation. However it would not enable some issues to be tackled, e.g. the regulation of direct authorisations and prevention of abusive reflagging.

Option 4: entails adopting a new regulation with broader scope, including eligibility criteria for the submission for direct authorisations and would also include provisions to prevent abusive cases of reflagging.

Option 5: would combine legal certainty with broader scope, thus leading to a complete framework regulating the activity of the EU external fleet abroad. For this reason, this option has been considered as the most effective option for achieving policy objectives, ensuring legal certainty and contributing to the international credibility of the Union. It would optimise environmental benefits linked to the protection of living marine resources and would outweigh possible adaptation costs for operators and administrations in the short term. Finally all options can be considered neutral from a social perspective.

- **Regulatory fitness and simplification**

The revision of the FAR is part of the REFIT programme as it aims to simplify the current system, harmonise the various data requirements of the Member States, clarify responsibilities at Union, national, and operator level and increase consistency between the FAR, the Control Regulation and the IUU Regulation.

Clarification and simplification of the rules should streamline and improve the processing of authorisation requests, bringing more certainty for economic operators and eliminating overlap between relevant actors. This should help to improve the regulatory framework under which the external fleet operates, while enhancing the control of public authorities.

The proposal should be supported by appropriate IT tools to simplify the processing and monitoring of fishing authorisations and to encourage the electronic exchange of data between national administrations and the Commission. It will also increase transparency by creating a register on fishing authorisations (containing both a public and a secure part) allowing all stakeholders to access information on the activities of the external fleet, in line with the rules on the processing of personal data.

Most of the fleet concerned is composed of industrial fishing vessels, fishing outside EU waters. The owners of these vessels usually own a fleet made up of several vessels and would fall under the SME definition criteria in only limited cases. On that basis, and taking into account the absence of additional cost for private operators, there is no provision for specific measures for micro-enterprises or SMEs in the proposal. Furthermore, the proposal has no negative impact on the competitiveness of EU operators or international trade.

- **Fundamental rights**

N/A

4. BUDGETARY IMPLICATIONS

N/A

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Commission envisages the creation of an expert group from national administrations to monitor the implementation of the Regulation as well as an evaluation of the system in place to be made available five years after its entry into force.• **Explanatory documents (for directives)**

N/A

- **Detailed explanation of the specific provisions of the proposal**

Title I — The Regulation covers all fishing activities carried out by Union vessels outside Union waters. These can therefore be under an access agreement or direct authorisation from the third country, and/or under the umbrella of a regional fisheries management organisation, or on the high seas. The Regulation also covers third country vessels which operate in Union waters. Article 2 is intended to clarify its relationship to other rules dealing with authorisations, which may stem from the bilateral agreements or from the regional fisheries management organisations. These should be considered as special rules, whereas the present Regulation draws up the general framework. In the event of contradiction, the special rules should prevail.

Title II — Chapter I sets out the essential principle of the Regulation — that every vessel should be authorised by its flag Member State before fishing outside Union waters, and by the coastal State when the activity takes place in its waters. This authorisation should be given by the flag State only if the eligibility criteria in Article 5 are met, in any context. The responsibility of the flag State is central in this regard. A specific provision on reflagging allows the flag Member State to better identify when the reflagging operation indicates intended non-compliance that should prevent the authorisation being given.

Title II — Chapter II specifies the additional conditions to be met by Union vessels in order to fish in third country waters, be it under an access agreement or a direct authorisation. A central element is the prohibition to fish under a direct authorisation when an access agreement is in force, unless otherwise provided for in its so-called exclusivity clause, which reflects this principle in the agreements. The principle underpinning this title is that the Union needs to ensure that the activities of its external fleet do not undermine the sustainability of living marine resources within the waters of coastal states. In the case of a direct authorisation, the flag Member State should follow the best available scientific advice and a precautionary approach when authorising its vessels. The Commission is provided with all the relevant information and can intervene if it has doubts as to the compliance of the planned fishing operation with the Regulation.

Title II — Chapter III lays down the process for carrying out fishing activities under the auspices of an RFMO or on the high seas. The Commission may intervene if it believes the eligibility criteria are not being met. Besides, since some RFMOs also cover Union waters, it is reasonable that Union vessels under the auspices of such RFMOs fall under the scope of this Regulation.

Title II — Chapter V lays down basic rules on chartering, which is a particular form of direct authorisation and which has been difficult to monitor so far. The main objective is to provide a legal framework for this practice to be able to better monitor Union vessels fishing under a

chartering agreement and to align our legislation with the rules adopted by some RFMOs in this regard.

Title II — Chapter VI covers the application of the Control Regulation to the activities of the Union external fleet and related obligations in terms of reporting, together with some specific obligations related to the external nature of the activities.

Title III sets out the rules for the authorisation of fishing activities by third country vessels in Union waters. The objective of this part is to ensure that fishing activities taking place in Union waters are subject to the same rules independently of the flag of the vessel, while promoting a level playing field for Union operators and third-country operators in Union waters.

Title IV creates a fishing authorisation register to better monitor the Union external fleet and increase transparency regarding these activities, with part of the register being publicly accessible. People should be able to know at any time which vessel is authorised to fish what and where.

Proposal for a

REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
on the sustainable management of external fishing fleets, repealing Council Regulation
(EC) No 1006/2008

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,
Having regard to the Treaty on the Functioning of the European Union, and in particular Article 43(2) thereof,
Having regard to the proposal from the European Commission,
After transmission of the draft legislative act to the national parliaments,
Having regard to the opinion of the European Economic and Social Committee¹²,
Having regard to the opinion of the Committee of the Regions¹³,
Having regard to the opinion of the European Data Protection Supervisor¹⁴,
Acting in accordance with the ordinary legislative procedure,
Whereas:

- (1) Council Regulation (EC) No 1006/2008¹⁵ ('FAR') established a system concerning authorisations for fishing activities of Union fishing vessels outside Union waters and the access of third country vessels to Union waters,
- (2) The Union is a contracting party to the United Nations Conventions on the Law of the Sea of 10 December 1982¹⁶ (UNCLOS) and has ratified the 1995 United Nations Agreement on the Implementation of the provisions of the United Nations Convention on the Law of the Sea relating to the conservation and management of straddling fish stocks and highly migratory fish stocks of 4 August 1995 (UN Fish Stock Agreement)¹⁷. These international provisions set out the principle that all states have to adopt appropriate measures to ensure the sustainable management of marine resources and to cooperate with each other to this end.

¹² OJ C , , p. .

¹³ OJ C , , p. .

¹⁴ OJ C , , p. .

¹⁵ Council Regulation (EC) No 1006/2008 of 29 September 2008 concerning authorisations for fishing activities of Community fishing vessels outside Community waters and the access of third country vessels to Community waters, amending Regulations (EEC) No 2847/93 and (EC) No 1627/94 and repealing Regulation (EC) No 3317/94 (OJ L 286, 29.10.2008, p. 33).

¹⁶ Council Decision 98/392/EC of 23 March 1998 concerning the conclusion by the European Community of the United Nations Convention of 10 December 1982 on the Law of the Sea and the Agreement of 28 July 1994 relating the implementation of Part XI thereof (OJ L 179, 23.6.1998, p. 1).

¹⁷ Council Decision 98/414/EC of 8 June 1998 on the ratification by the European Community of the Agreement for the implementing of the provisions of the United Nations Convention of the Law of the Sea of 10 December 1982 relating to the conservation and management of straddling stocks and highly migratory fish stocks (OJ L 189, 3.7.1998, p. 14).

- (3) The Union has accepted the Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas of 24 November 1993 of the Food and Agriculture Organisation of the United Nations (FAO Compliance Agreement)¹⁸. This agreement stipulates that a contracting party is to abstain from granting authorisation to use a vessel for fishing on the high seas if certain conditions are not met, as well as implement sanctions if certain reporting obligations are not fulfilled.
- (4) The Union has endorsed the FAO International Plan of Action to prevent, deter and eliminate illegal, unreported and undeclared fishing (IPOA-IUU) adopted in 2001. The IPOA-IUU and the FAO Voluntary Guidelines for flag state performance endorsed in 2014 underlie the responsibility of the flag State to ensure the long-term conservation and sustainable use of living marine resources and marine ecosystems. The IPOA-IUU provides that a flag State should issue authorisations to fish in waters outside its sovereignty or jurisdiction to vessels flying its flag. The Voluntary Guidelines also recommend an authorisation be given by the flag State and by the coastal state when the fishing activities take place under a fisheries access agreement or even outside such an agreement. They should both be satisfied that such activities will not undermine the sustainability of the stocks in the coastal state's waters (paragraphs 40 and 41).
- (5) The issue of the obligations and concomitant responsibilities and liabilities of the flag State and, where appropriate, the flag international organisation, for the conservation and management of the living resources of the high seas under UNCLOS has increasingly come into focus at international level. This has also been the case, under the heading of a due diligence obligation flowing from UNCLOS, for concurrent coastal State jurisdiction and flag State jurisdiction and, as appropriate, flag international organisation jurisdiction, to secure sound conservation of marine biological resources within sea areas under national jurisdiction. A due diligence obligation is an obligation for a State to exercise best possible efforts and to do the utmost to prevent illegal fishing, which includes the obligation to adopt the necessary administrative and enforcement measures to ensure that fishing vessels flying its flag, its nationals, or fishing vessels engaged in its waters are not involved in activities which breach the applicable conservation and management measures. For these reasons, it is important to organise both the activities of Union fishing vessels outside Union waters as well as the governance system pertaining thereto in such a manner that the Union's international obligations can be efficiently and effectively discharged and that situations where the Union might be reproached for internationally wrongful acts are avoided.
- (6) The outcomes of the 2012 United Nations Conference on Sustainable Development 'Rio +20'¹⁹ as well as the international developments regarding the fight against illegal wildlife trade should be reflected into the Union's external fisheries policy.
- (7) The objective of the Common Fisheries Policy (CFP), as set out in Regulation (EU) No 1380/2013 of the European Parliament and of the Council (the 'Basic

¹⁸ Council Decision 96/428/EC of 25 June 1996 on acceptance by the Community of the Agreement to promote compliance with international conservation and management measures by fishing vessels on the high seas (OJ L 177/26, 16.7.1996, p. 24).

¹⁹ United Nations General Assembly Resolution A/Res/66/288 of 27 July 2012 on the outcome of the Rio +20 Conference, entitled "The Future We Want".

Regulation')²⁰, is to ensure that fishing activities are environmentally, economically and socially sustainable and are managed consistently with the objectives of achieving economic, social and employment benefits, and that they are contributing to the availability of food supplies.

- (8) Regulation (EU) No 1380/2013 stresses the need to promote the objectives of the CFP internationally, ensuring that Union fishing activities outside Union waters are based on the same principles and standards as those applicable under Union law, while promoting a level playing field for Union operators and third-country operators.
- (9) Council Regulation (EC) No 1006/2008 was intended to establish common ground for authorising fishing activities to be carried out by Union vessels outside Union waters with a view to supporting the fight against IUU fishing and better control and monitoring of the EU fleet across the globe.
- (10) Council Regulation (EC) No 1005/2008²¹ on IUU fishing was adopted in parallel to Council Regulation (EC) No 1006/2008 and Council Regulation (EC) No 1224/2009 ('the Control Regulation')²² was adopted a year later. Those Regulations are the three implementing pillars of the control and enforcement provisions of the CFP.
- (11) However, these three regulations were not implemented consistently; in particular there were inconsistencies between the FAR and the Control Regulation, which was adopted after the FAR Regulation. The implementation of the FAR also revealed several loopholes, since some challenges in terms of control, such as chartering, reflagging and the issuance of fishing authorisations issued by a third country competent authority to a Union fishing vessel outside the framework of a Sustainable Fisheries Partnership Agreement ("direct authorisations"), were not covered. Besides, some reporting obligations have proven difficult as has the division of administrative roles between the Member States and the Commission.
- (12) The core principle of the present regulation is that any Union vessel fishing outside Union waters should be authorised by its flag Member State and monitored accordingly, irrespective of where it operates and the framework under which it does so. The issuing of an authorisation should be dependent on a basic set of common eligibility criteria being fulfilled. The information gathered by the Member States and provided to the Commission should allow the latter to intervene in the monitoring of the fishing activities of all Union fishing vessels in any given area outside Union waters at any time.
- (13) Support vessels may have a substantial impact on the way fishing vessels are able to carry out their fishing activities and on the quantity of fish they can retrieve; it is

²⁰ Regulation (EU) no 1380/2013 of the European Parliament and of the Council of 11 December 2013 on the Common Fisheries Policy (OJ L 354, 28.12.2013, p. 22).

²¹ Council Regulation (EC) No 1005/2008 of 29 September 2008 establishing a Community system to prevent, deter and eliminate illegal, unreported and unregulated fishing, amending Regulations (EEC) No 2847/93, (EC) No 1936/2001 and (EC) No 601/2004 and repealing Regulations (EC) No 1093/94 and (EC) No 1447/1999 (OJ L 286, 29.10.2008, p. 1).

²² Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 (OJ L 343, 22.12.2009, p. 1).

therefore necessary to take them into account in the authorisation and reporting processes in this regulation.

- (14) Reflagging operations become an issue when their objective is to circumvent CFP rules or existing conservation and management measures. The Union should therefore be able to define, detect and hamper such operations. Traceability and proper follow-up of compliance history should be ensured throughout a vessel's lifespan. The requirement that a unique vessel number be granted by the International Maritime Organisation (IMO) should also serve this purpose.
- (15) In third country waters, Union vessels may operate either under the provisions of sustainable fisheries partnership agreements concluded between the Union and third countries or by obtaining direct fishing authorisations from third countries if no sustainable fisheries partnership agreement is in force. In both cases these activities should be carried out in a transparent and sustainable way. This is why the flag Member States should be empowered to authorise under a defined set of criteria and subject to monitoring, the vessels flying their flag to seek and obtain direct authorisations from third coastal states. The fishing activity should be authorised once the flag Member State is satisfied that it will not undermine sustainability. Unless the Commission has any further objection, the operator who has been given the authorisation from both the flag Member State and the coastal state should be allowed to start its fishing operation.
- (16) A specific issue pertaining to sustainable fisheries partnership agreements is the reallocation of under-utilised fishing opportunities that occur when fishing opportunities allocated to Member States by the relevant Council Regulations are not fully used. Since the access costs set out in the sustainable fisheries partnership agreements are financed for a large part by the Union budget, a reallocation system is important to preserve Union financial interests and ensure that no fishing opportunity which has been paid for is wasted. It is therefore necessary to clarify and improve the reallocation system, which should be a last resort mechanism. Its application should be temporary and it should not affect the initial allocation of fishing opportunities among Member States. Reallocation should only occur once the relevant Member States have given up on their rights to exchange fishing opportunities among themselves.
- (17) Fishing activities under the auspices of regional fisheries management organisations and on the high seas should also be authorised by the flag Member State and comply with regional fisheries management organisation specific rules or Union legislation governing fishing activities on the high seas.
- (18) Chartering arrangements may undermine the effectiveness of conservation and management measures, as well as have a negative impact on the sustainable exploitation of living marine resources. It is therefore necessary to set out a legal framework that helps the Union to better monitor the activities of Union chartered fishing vessels on the basis of what has been adopted by the relevant regional fisheries management organisation.
- (19) Procedures should be transparent and predictable for Union and third country operators, as well as for their respective competent authorities.
- (20) The exchange of data in electronic form between Member States and the Commission, as provided for by the Control Regulation, should be ensured. Member States should collect all requested data about their fleets and their fishing activities, manage it and

make it available to the Commission. Moreover, they should cooperate with each other, the Commission and third countries where relevant in order to coordinate these data collection activities.

- (21) With a view to improving the transparency and accessibility of information on Union fishing authorisations, the Commission should set up an electronic fishing authorisation register comprising both a public and a secure part. Information in the Union fishing authorisation register includes personal data. The processing of personal data based on this Regulation should comply with Regulation (EC) No 45/2001 of the European Parliament and of the Council²³, Directive 95/46/EC of the European Parliament and of the Council²⁴ and applicable national laws.
- (22) With a view to properly addressing access to Union waters of fishing vessels flying the flag of a third country, the relevant rules should be consistent with those applicable to Union fishing vessels, in accordance with the Control Regulation. In particular, Article 33 of that Regulation on the reporting of catch and catch-related data should also apply to third country vessels fishing in Union waters.
- (23) Fishing vessels from third countries without authorisation under this Regulation should, when navigating in Union waters, be obliged to ensure that their fishing gear is installed in such a manner that it is not readily usable for fishing operations.
- (24) Member States should be responsible for controlling the fishing activities of third country vessels in Union waters and, in the event of infringements, for recording them in the national register provided for in Article 93 of the Control Regulation.
- (25) In order to simplify authorisation procedures, a common system of data exchange and data storage should be used by the Member States and the Commission to provide necessary information and updates while minimising administrative burden. In this regard, the data contained in the Union fleet register should be fully used.
- (26) In order to take into account technological progress and subsequent possible new international law requirements, the power to adopt acts in accordance with Article 290 of the Treaty should be delegated to the Commission in respect of the adoption of modifications to the Annexes to this Regulation setting out the list of information to be provided by an operator in order to obtain a fishing authorisation. It is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure the simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and to the Council.
- (27) Implementing powers should be conferred on the Commission to ensure uniform conditions for implementing the provisions of this Regulation in respect of the recording, format and the transmission of data related to fishing authorisations from the Member States to the Commission and to the Union fishing authorisation register, as well as to lay down a methodology for the reallocation of unused fishing

²³ Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L008 , 12.01.2001, p. 1).

²⁴ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, 23.11.1995, p. 31).

opportunities. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council²⁵.

- (28) The Commission should adopt immediately applicable implementing acts where, in duly justified cases relating to the reallocation of fishing opportunities, imperative grounds of urgency so require.
- (29) By reason of the number and importance of the amendments to be made, Council Regulation (EC) No 1006/2008 should be repealed.

HAVE ADOPTED THIS REGULATION:

TITLE I

GENERAL PROVISIONS

Article 1 *Subject matter*

This Regulation sets out rules for issuing and managing fishing authorisations for:

- (a) Union fishing vessels operating in waters under the sovereignty or jurisdiction of a third country, under the auspices of a regional fisheries management organisation, in or outside Union waters, or on the high seas; and
- (b) third country fishing vessels operating in Union waters.

Article 2 *Relationship to international and Union law*

This Regulation shall apply without prejudice to the provisions:

- (a) in sustainable fisheries partnership agreements and similar fisheries agreements concluded between the Union and third countries;
- (b) adopted by regional fisheries management organisations or similar fisheries organisations to which the Union is a contracting party or a non-contracting cooperating party;
- (c) in Union legislation implementing or transposing provisions referred to in points (a) and (b).

Article 3 *Definitions*

For the purpose of this Regulation, the definitions in Article 4 of Regulation (EU) No 1380/2013 shall apply. In addition, the following definitions shall also apply:

- (a) ‘support vessel’ means a vessel that is not equipped with operational fishing gear that facilitates, assists or prepares fishing activities;
- (b) ‘fishing authorisation’ means an authorisation issued in respect of a Union fishing vessel or third country fishing vessel, entitling it to carry out specific

²⁵ Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission’s exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

fishing activities during a specified period, in a given area or for a given fishery under specific conditions;

- (c) ‘fishing authorisation register’ means the management system of fishing authorisations and the associated database;
- (d) ‘direct authorisation’ means a fishing authorisation issued by a third country competent authority to a Union fishing vessel outside the framework of a sustainable fisheries partnership agreement;
- (e) ‘third country waters’ means waters under the sovereignty or jurisdiction of a third country;
- (f) ‘observer program’ means a scheme under the auspices of a regional fisheries management organisation that provides observers onboard fishing vessels under certain conditions to verify the vessel's compliance with the rules adopted by that organisation.

TITLE II

FISHING ACTIVITIES BY UNION FISHING VESSELS OUTSIDE UNION WATERS

Chapter I

Common provisions

Article 4

General principle

Without prejudice to the requirement to obtain an authorisation from the competent organisation or third country, a Union fishing vessel may not carry out fishing activities outside Union waters unless it has been issued with a fishing authorisation by its flag Member State.

Article 5

Eligibility criteria

1. A flag Member State may only issue a fishing authorisation for fishing activities outside Union waters if:
 - (a) it has received complete and accurate information, in accordance with Annexes 1 and 2, about the fishing vessel and the associated support vessel(s), including non-Union support vessels;
 - (b) the fishing vessel has a valid fishing license under Article 6 of Regulation (EC) No 1224/2009;
 - (c) the fishing vessel and any associated support vessel have an IMO number;
 - (d) the operator and the fishing vessel have not been subject to a sanction for a serious infringement according to the national law of the Member State pursuant to Article 42 of Council Regulation (EC) No 1005/2008 and Article 90 of Council Regulation (EC) No 1224/2009 during the 12 months prior to the application for the fishing authorisation;

- (e) the fishing vessel is not included in an IUU vessel list adopted by a regional fisheries management organisation and/or by the Union pursuant to Council Regulation (EC) 1005/2008;
 - (f) where applicable, fishing opportunities are available to the flag Member State under the fisheries agreement concerned or the relevant provisions of the regional fisheries management organisation; and
 - (g) where applicable, the fishing vessel complies with the requirements set out in Article 6.
2. The Commission shall be empowered to adopt delegated acts, in accordance with Article 43, for the purpose of modifying Annexes 1 and 2.

Article 6
Reflagging operations

1. This article applies to vessels that within five years of the date of the application for a fishing authorisation have:
- (a) left the Union fishing fleet register and been reflagged in a third country; and
 - (b) subsequently returned to the Union fishing fleet register within 24 months from the date of leaving it.
2. A flag Member State may only issue a fishing authorisation if it is satisfied that, during the period that the vessel referred to in paragraph 1 operated under a third country flag:
- (a) it did not engage in IUU fishing activities; and that
 - (b) it did not operate in waters of a non-cooperating third country pursuant to Articles 31 and 33 of Council Regulation (EC) No 1005/2008.
3. To this end, an operator shall provide any information related to the relevant period required by a flag Member State, including at least each of the following:
- (a) a declaration of catches and fishing efforts during the relevant period;
 - (b) a copy of the fishing authorisation issued by the flag State for the relevant period;
 - (c) a copy of any fishing authorisation permitting fishing operations in third country waters during the relevant period;
 - (d) an official statement by the third country where the vessel was reflagged listing the sanctions the vessel or the operator had been subject to during the relevant period.
4. A flag Member State shall not issue a fishing authorisation to a vessel that has been reflagged:
- (a) in a third country which became identified or listed as a non-cooperating country in combatting IUU fishing pursuant to Articles 31 and 33 of Council Regulation (EC) No 1005/2008; or

- (b) in a third country which became identified as a country allowing non-sustainable fishing pursuant to Article 4 paragraph 1(a) of Regulation (EU) No 1026/2012²⁶.
- 5. Paragraph 4 shall not apply if the flag Member State is satisfied that, as soon as the country was identified as an IUU non-cooperating country or as allowing non-sustainable fishing, the operator:
 - (a) ceased fishing operations; and
 - (b) started the relevant administrative procedures to remove the vessel from the third country's fishing fleet register.

Article 7 *Monitoring fishing authorisations*

1. When applying for a fishing authorisation, an operator shall provide the flag Member State with complete and accurate data.
2. An operator shall immediately inform the flag Member State of any change to the related data.
3. A flag Member State shall monitor whether the conditions on the basis of which a fishing authorisation has been issued continue to be met during the period of validity of that authorisation.
4. If a condition on the basis of which a fishing authorisation has been issued is no longer met, a flag Member State shall amend or withdraw the authorisation and notify the operator and the Commission accordingly.
5. Upon a request from the Commission, a flag Member State shall refuse, suspend or withdraw the authorisation in cases of overriding policy reasons pertaining to the sustainable exploitation, management and conservation of marine biological resources or the prevention or suppression of illegal, unreported or unregulated fishing, or in cases where the Union has decided to suspend or sever relations with the third country concerned.
6. If a flag Member State fails to refuse, amend, suspend or withdraw the authorisation in accordance with paragraphs 4 and 5, the Commission may decide to withdraw the authorisation and notify the flag Member State and the operator accordingly.

Chapter II

Fishing activities by Union fishing vessels in third country waters

²⁶ Regulation (EU) No 1026/2012 of the European Parliament and of the Council of 25 October 2012 on certain measures for the purpose of the conservation of fish stocks in relation to countries allowing non-sustainable fishing (OJ L 316, 14.11.2012, p. 34).

SECTION 1

FISHING ACTIVITIES UNDER SUSTAINABLE FISHERIES PARTNERSHIP AGREEMENTS

Article 8 *RFMO Membership*

A Union fishing vessel may only carry out fishing activities in waters of a third country on stocks managed by an RFMO if this country is a contracting party or non-contracting cooperating party to that RFMO.

Article 9 *Scope*

This Section shall apply to fishing activities carried out by Union fishing vessels in third country waters under a sustainable fisheries partnership agreement.

Article 10 *Fishing authorisations*

A Union fishing vessel may not carry out fishing activities in waters of a third country under a sustainable fisheries partnership agreement unless it has been issued with a fishing authorisation:

- (a) by its flag Member State; and
- (b) by the third country with sovereignty or jurisdiction over the waters where the activities take place .

Article 11 *Conditions for fishing authorisations by the flag Member State*

A flag Member State may only issue a fishing authorisation for fishing activities carried out in third country waters under a sustainable fisheries partnership agreement if :

- (a) the eligibility criteria set out in Article 5 are fulfilled;
- (b) the conditions set out in the relevant sustainable fisheries partnership agreement are complied with;
- (c) the operator has paid all fees and financial penalties claimed by the third country competent authority over the past 12 months.

Article 12 *Management of fishing authorisations*

1. Once it has issued a fishing authorisation, a flag Member State shall send the Commission the corresponding application for the third country's authorisation.
2. The application referred to in paragraph 1 shall contain the information listed in Annexes 1 and 2 together with any other data required under the sustainable fisheries partnership agreement.
3. The flag Member State shall send the application to the Commission at least 10 calendar days before the deadline for the transmission of applications laid down in

the sustainable fisheries partnership agreement. The Commission may ask the flag Member State for any additional information that it deems necessary.

4. When it is satisfied that the conditions in Article 11 are met, the Commission shall send the application to the third country.
5. If a third country informs the Commission that it has decided to issue, refuse, suspend or withdraw a fishing authorisation for a Union fishing vessel, the Commission shall inform the flag Member State accordingly.

Article 13

Reallocation of unused fishing opportunities in the framework of sustainable fisheries partnership agreements

1. During a specific year or any other relevant period of the implementation of a protocol to a sustainable fisheries partnership agreement, the Commission may identify unused fishing opportunities and inform the Member States benefiting from the corresponding shares of the allocation accordingly.
2. Within 10 days of receipt of this information from the Commission, the Member States referred to in paragraph 1 may:
 - (a) inform the Commission that they will use their fishing opportunities later in the year or the relevant period of implementation by providing a fishing plan with detailed information on the number of fishing authorisations requested, the estimated catches, zone and period of fishing; or
 - (b) notify the Commission of exchanges of fishing opportunities, pursuant to article 16(8) of Regulation (EU) No 1380/2013.
3. If certain Member States have not informed the Commission of one of the actions referred to in paragraph 2 and, if as a result fishing opportunities remain unused, the Commission may launch a call for interest for the available unused fishing opportunities among the other Member States benefiting from a share of the allocation.
4. Within 10 days of receipt of this call for interest, those Member States may communicate their interest in the unused fishing opportunities to the Commission. In support for their request, they shall provide a fishing plan with detailed information on the number of fishing authorisations requested, the estimated catches, zone and period of fishing.
5. If deemed necessary for the assessment of the request, the Commission may ask the Member States concerned for additional information.
6. In the absence of any interest in the unused fishing opportunities by the Member States benefiting from a share of the allocation, the Commission may launch a call for interest to all Member States. A Member State may communicate its interest in the unused fishing opportunities under the conditions referred to in paragraph 4.
7. On the basis of the information provided by Member States in accordance with paragraphs 4 or 5, the Commission shall reallocate the unused fishing opportunities on a temporary basis by applying the methodology set out in Article 14.

Article 14
Reallocation methodology

1. The Commission may lay down, by means of implementing acts, a methodology for the reallocation of unused fishing opportunities. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 45(2).
2. On duly justified imperative grounds of urgency relating to the limited time left to exploit unused fishing opportunities, the Commission shall adopt immediately applicable implementing acts in accordance with the procedure referred to in Article 45(3). Those acts shall remain in force for a period not exceeding 6 months.
3. When laying down the reallocation methodology, the Commission shall apply the following criteria:
 - (a) fishing opportunities available for reallocation;
 - (b) number of requesting Member States;
 - (c) share assigned to each requesting Member State in the initial allocation of fishing opportunities;
 - (d) historic catch and effort levels of each requesting Member State;
 - (e) number, type and characteristics of vessels and gear used;
 - (f) consistency of the fishing plan provided by the requesting Member States with the elements listed in points (a) to (e).

Article 15
Allocation of a yearly quota broken down into several successive catch limits

1. Where the Protocol to a sustainable fisheries partnership agreement sets monthly or quarterly catch limits or other subdivisions of a yearly quota, the Commission may adopt an implementing act establishing a methodology for allocating, monthly, quarterly or other period, the corresponding fishing opportunities between Member States. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 45(2).
2. The allocation of fishing opportunities referred to in paragraph 1 shall be consistent with the annual fishing opportunities allocated to Member States under the relevant Council Regulation.

SECTION 2
FISHING ACTIVITIES UNDER DIRECT AUTHORISATIONS

Article 16
Scope

This Section shall apply to fishing activities carried out by Union fishing vessels outside the framework of a sustainable fisheries partnership agreement in waters of a third country.

Article 17
Fishing authorisations

A Union fishing vessel may not carry out fishing activities in waters of a third country outside the framework of a sustainable fisheries partnership agreement unless it has been issued with a fishing authorisation:

- (a) by its flag Member State; and
- (b) by the third country with sovereignty or jurisdiction over the waters where the activities take place.

Article 18
Conditions for fishing authorisations by the flag Member States

A flag Member State may only issue a fishing authorisation for fishing activities carried out in third country waters outside the framework of a sustainable fisheries partnership agreement if:

- (a) there is no sustainable fisheries partnership agreement in force with the relevant third country, or the sustainable fisheries partnership agreement in force provides expressly for the possibility of direct authorisations;
- (b) the eligibility criteria set out in Article 5 are fulfilled;
- (c) the operator has provided each of the following:
 - a written confirmation from the third country, following the discussions between the operator and the latter, of the terms of the intended direct authorisation to give the operator access to its fishing resources , including the duration, conditions, and fishing opportunities expressed as effort or catch limits;
 - evidence of the sustainability of the planned fishing activities, on the basis of:
 - a scientific evaluation provided by the third country and/or by a regional fisheries management organisation; and
 - an examination of the latter by the flag Member State on the basis of the assessment of its national scientific institute;
 - a copy of the third country's fisheries legislation;
 - a designated official, public bank account number for the payment of all the fees; and
- (d) in the case that the fishing activities are to be carried out on species managed by a regional fisheries management organisation, the third country is a contracting party or a non-contracting cooperating party to that organisation.

Article 19
Management of direct authorisations

1. Once it has issued a fishing authorisation, a flag Member State shall send the Commission the relevant information listed in Annexes 1 and 2, and in Article 18.

2. If the Commission has not requested further information or justification within 15 calendar days of the transmission of the information referred to in paragraph 1, the flag Member State shall inform the operator that it may start the fishing activities in question, provided it has been granted the direct authorisation by third country as well.
3. If, following the request for further information or justification referred to in paragraph 2, the Commission finds that the conditions in Article 18 are not met, it may object to the granting of the fishing authorisation within two months of receipt of all the required information or justification.
4. If a third country informs the Commission that it has decided to issue, refuse, suspend or withdraw a direct authorisation to a Union fishing vessel, the Commission shall inform the flag Member State accordingly.
5. If a third country informs the flag Member State that it has decided to issue, refuse, suspend or withdraw a direct authorisation to a Union fishing vessel, the flag Member State shall inform the Commission accordingly.
6. An operator shall provide the flag Member State with a copy of the agreed final conditions between him and the third country, including a copy of the direct authorisation.

Chapter III

Fishing activities by Union fishing vessels under the auspices of regional fisheries management organisations

Article 20

Scope

This Chapter shall apply to fishing activities carried out by Union fishing vessels on stocks under the auspices of a regional fisheries management organisation, in Union waters, on the high seas and in third country waters.

Article 21

Fishing authorisations

A Union fishing vessel may not carry out fishing activities on stocks managed by a regional fisheries management organisation unless:

- (a) it has been issued with a fishing authorisation by its flag Member State;
- (b) it has been included in the relevant register or list of the regional fisheries management organisation; and
- (c) where the fishing activities are carried out in third country waters: it has been issued a fishing authorisation by the relevant third country in accordance with Chapter II.

Article 22

Conditions for fishing authorisations by the flag Member States

A flag Member State may only issue a fishing authorisation if:

- (a) the eligibility criteria in Article 5 are fulfilled;

- (b) the rules laid down by the regional fisheries management organisation or the transposing Union legislation are complied with; and
- (c) where the fishing activities are carried out in third country waters: the criteria set out in Articles 11 or 18 are complied with.

Article 23

Registration by regional fisheries management organisations

1. A flag Member State shall send the Commission the list(s) of vessels it has authorised for fishing activities under the auspices of a regional fisheries management organisation.
2. The list(s) referred to in paragraph 1 shall be drawn up in accordance with the regional fisheries management organisation requirements and accompanied by the information in Annexes 1 and 2.
3. The Commission may request any additional information that it deems necessary from the flag Member State.
4. When it is satisfied that the conditions in Article 22 are met, the Commission shall send the list(s) of authorised vessels to the regional fisheries management organisation.
5. If the regional fisheries management organisation register or list is not public, the Commission shall notify the flag Member State of the vessels included on it.

Chapter IV

Fishing activities by Union fishing vessels on the high seas

Article 24

Scope

This Chapter shall apply to fishing activities carried out on the high seas by Union fishing vessels exceeding 24 meters in overall length.

Article 25

Fishing authorisations

A Union fishing vessel may not carry out fishing activities on the high seas unless:

- (a) it has been issued with a fishing authorisation by its flag Member State; and
- (b) the fishing authorisation has been notified to the Commission in accordance with Article 27.

Article 26

Conditions for fishing authorisations by the flag Member States

A flag Member State may only issue a fishing authorisation for fishing activities on the high seas if the eligibility criteria in Article 5 are fulfilled.

Article 27
Notification to the Commission

A flag Member State shall notify the fishing authorisation to the Commission at least 15 calendar days before the start of the planned fishing activities on the high seas, providing the information in Annexes 1 and 2.

Chapter V

Chartering of Union fishing vessels

Article 28
Principles

1. A Union fishing vessel may not carry out fishing activities under chartering arrangements where a sustainable fisheries partnership agreement is in force, unless otherwise provided for in that agreement.
2. A Union vessel may not carry out fishing activities under more than one chartering arrangement at a time or engage in sub-chartering.
3. A chartered Union vessel may not use the fishing opportunities of its flag Member State. The catches of a chartered vessel shall be counted against the fishing opportunities of the chartering State.

Article 29
Management of fishing authorisations under a chartering arrangement

When issuing a fishing authorisation to a vessel in accordance with Articles 11, 18, 22 or 26, and when the relevant fishing activities are carried out under a chartering arrangement, the flag Member State shall verify that:

- (a) the chartering State's competent authority has officially confirmed that the arrangement is in line with its national legislation; and
- (b) the chartering arrangement is specified in the fishing authorisation.

Chapter VI

Control and reporting obligations

Article 30
Observer programme data

If data are collected on board a Union fishing vessel under an observer programme, the operator of that vessel shall send these data to its flag Member State.

Article 31
Information to third countries

1. When carrying out fishing activities under this Title, and if the sustainable fisheries partnership agreement with the third country so provides, an operator of a Union fishing vessel shall send the relevant catch declarations and landing declarations to the third country, and send its flag Member State a copy of that communication.

2. A flag Member State shall assess the consistency of the data sent to the third country, as referred to in paragraph 1, with the data it has received in accordance with Regulation (EC) No 1224/2009.
3. The non-transmission of catch declarations and landing declarations to the third country referred to in paragraph 1 shall be considered a serious infringement for the purposes of applying the sanctions and other measures provided for by the common fisheries policy. The gravity of the infringement shall be determined by the competent authority of the Member State, taking into account criteria such as the nature of the damage, its value, the economic situation of the offender and the extent of the infringement or its repetition.

TITLE III

FISHING ACTIVITIES BY THIRD COUNTRY FISHING VESSELS IN UNION WATERS

Article 32 *General principles*

1. A third country fishing vessel may not engage in fishing activities in Union waters unless it has been issued with a fishing authorisation by the Commission.
2. A third country fishing vessel authorised to fish in Union waters shall comply with the rules governing the fishing activities of Union vessels in the fishing zone in which it operates, and the provisions laid down in the relevant fisheries agreement.
3. If a third country fishing vessel is sailing through Union waters without an authorisation issued under this Regulation, its fishing gear shall be lashed and stowed so that it is not readily usable for fishing operations.

Article 33 *Conditions for fishing authorisations*

The Commission may only issue an authorisation to a third country fishing vessel for fishing activities in Union waters if:

- (a) the information in Annexes 1 and 2 about the fishing vessel and the associated support vessel(s) is complete and accurate; the vessel and any associated support vessel(s) have an IMO number;
- (b) the operator and the fishing vessel have not been subject to any sanction for a serious infringement according to the national law of the Member State pursuant to Article 42 of Council Regulation (EC) No 1005/2008 and Article 90 of Council Regulation (EC) No 1224/2009 during the 12 months before the application for the fishing authorisation;
- (c) the fishing vessel is not on any IUU list and/or the third country is not identified or listed as non-cooperating pursuant to Council Regulation (EC) 1005/2008 or as allowing non-sustainable fishing pursuant to Regulation (EU) No 1026/2012;

- (d) the fishing vessel is eligible under the fisheries agreement with the third country concerned and, where appropriate, is on the list of vessels under that agreement.

Article 34

Procedure for the issuing of fishing authorisations

1. The third country shall send the Commission the applications for its fishing vessels before the deadline in the agreement concerned or that set by the Commission.
2. The Commission may ask the third country for any additional information that it deems necessary.
3. When it is satisfied that the conditions in Article 33 are met, the Commission shall issue a fishing authorisation and inform the third country and the Member States concerned of this.

Article 35

Monitoring fishing authorisations

1. If a condition in Article 33 is no longer met, the Commission shall amend or withdraw the authorisation and inform the third country and the Member States concerned of this.
2. The Commission may refuse, suspend or withdraw the authorisation in cases where a fundamental change of circumstances has occurred or in cases where overriding policy reasons pertaining inter alia to international standards of human rights or to the fight against illegal, unreported or unregulated fishing warrant such action or in cases where, for such or any other reason of overriding policy the Union has decided to suspend or sever relations with the third country concerned.

Article 36

Closure of fishing activities

1. Where fishing opportunities granted to a third country are deemed to have been exhausted, the Commission shall immediately notify it and the competent inspection authorities of the Member States of this. To ensure the continuance of fishing activities of non-exhausted fishing opportunities, which may also affect the exhausted opportunities, the third country shall submit to the Commission technical measures preventing any negative impact on the exhausted fishing opportunities. From the date of the notification referred to in paragraph 1, the fishing authorisations issued to vessels flying the flag of that third country concerned shall be considered to be suspended for the fishing activities concerned and the vessels shall no longer be authorised to engage in these fishing activities.
2. Fishing authorisations shall be considered to be withdrawn where a suspension of fishing activities in accordance with paragraph 2 concerns all the activities for which they have been granted.
3. The third country shall ensure that the fishing vessels concerned are informed immediately of the application of this Article and that they cease all fishing activities concerned.

Article 37
Overfishing of quotas in Union waters

1. When the Commission establishes that a third country has exceeded the quotas it has been allocated for a stock or group of stocks, the Commission shall make deductions from the quotas allocated to that country for that stock or group of stocks in subsequent years.
2. If a deduction according to paragraph 1 cannot be made on the quota for a stock or group of stocks that was overfished as such because that quota for a stock or group of stocks is not sufficiently available to the third country concerned, the Commission may, after consultation with the third country concerned, make deductions from quotas in subsequent years for other stocks or groups of stocks available to that third country in the same geographical area, or to the corresponding commercial value.

Article 38
Control and enforcement

1. A third country vessel authorised to fish in Union waters shall comply with the control rules governing the fishing activities of Union vessels in the fishing zone in which it operates.
2. A third country vessel authorised to fish in Union waters shall provide to the Commission or the body designated by it, and, where relevant, to the coastal Member State, the data which Union vessels are required to send to the flag Member State under Council Regulation (EC) No 1224/2009.
3. The Commission, or the body designated by it, shall send the data referred to in paragraph 2 to the coastal Member State.
4. A third country vessel authorised to fish in Union waters shall provide upon request to the Commission or the body designated by it the observer reports produced under applicable observer programmes.
5. A coastal Member State shall record all infringements committed by third country fishing vessels, including the related sanctions, in the national register provided for in Article 93 of Council Regulation (EC) No 1224/2009.
6. The Commission shall send the information referred to in paragraph 5 to the third country to ensure that appropriate measures are taken by the third country.

Paragraph 1 shall be without prejudice to the consultations between the Union and third countries. In this respect the Commission shall be empowered to adopt delegated acts, in accordance with Article 44, to implement into Union law the outcome of consultations with third countries in respect of access arrangements.

TITLE IV
DATA AND INFORMATION

Article 39
Union fishing authorisation register

1. The Commission shall set up and maintain an electronic Union fishing authorisation register, made of a public part and a secure part. That register shall:

- (a) record all information in Annexes 1 and 2 and display the status of each authorisation in real time;
 - (b) be used for data and information exchange between the Commission and a Member State; and
 - (c) be used for the purposes of sustainable management of fishing fleets only.
- 2. The list of fishing authorisations in the register shall be publicly accessible and contain each of the following information:
 - (a) name and flag of the vessel;
 - (b) type of authorisation; and
 - (c) authorised time and zone of fishing activity (start and end dates; fishing zone).
- 3. A Member State shall use the register to submit fishing authorisations to the Commission and to keep its details updated, as required under Articles 12, 19, 23 and 27

Article 40

Technical requirements

The exchange of information referred to in Titles II, III and IV shall be done in an electronic format. The Commission may adopt implementing acts, without prejudice to the provisions of Directive 2007/2/EC²⁷, establishing technical operational requirements for the recording, formatting and transmission of the information referred to in those Titles. These implementing acts shall be adopted in accordance with the examination procedure referred to in Article 45.

Article 41

Access to data

Without prejudice to Article 110 of Council Regulation (EC) No 1224/2009, the Member States or the Commission shall grant access to the secure part of the Union fishing authorisation register referred to in Article 39 to the relevant competent administrative services involved in the management of fishing fleets.

Article 42

Data management, protection of personal data and confidentiality

Data obtained under this Regulation shall be handled in accordance with Articles 109, 110, 111, and 113 of Council Regulation (EC) No 1224/2009, Regulation (EC) No 45/2001 and Directive 95/46/EC and its national implementing rules.

Article 43

Relations with third countries and regional fisheries management organisations

- 1. When a Member State receives information from a third country or a regional fisheries management organisation which is relevant for the effective application of this Regulation, it shall communicate that information to the other Member States

²⁷ Directive 2007/2/EC of the European Parliament and of the Council of 14 March 2007 establishing an Infrastructure for Spatial Information in the European Community (INSPIRE) (OJ L 108, 25.4.2007, p. 1).

concerned and to the Commission or the body designated by it, provided that it is permitted to do so under bilateral agreements with that third country or the rules of the regional fisheries management organisation concerned.

2. The Commission or the body designated by it may, in the framework of fisheries agreements concluded between the Union and third countries, under the auspices of regional fisheries management organisations or similar fisheries organisations to which the Union is a contracting party or a non-contracting cooperating party, communicate relevant information concerning non-compliance with the rules of this Regulation, or serious infringements referred to in Article 42(1)(a) of Regulation (EC) No 1005/2008 and in Article 90(1) of Regulation (EC) No 1224/2009, to other parties to those agreements or organisations subject to the consent of the Member State that supplied the information and in accordance with Regulation (EC) No 45/2001.

TITLE V

PROCEDURES, DELEGATION AND IMPLEMENTING MEASURES

Article 44

Exercise of delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 5(2) shall be conferred on the Commission
3. The delegation of power referred to in Article 5(2) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
4. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
5. A delegated act adopted pursuant to Article 5(2) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament or of the Council.

Article 45

Committee procedure

1. The Commission shall be assisted by the Committee for Fisheries and Aquaculture established under Article 47 of Regulation (EU) No 1380/2013. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph Article 5 of Regulation (EU) No 182/2011 shall apply.

3. Where reference is made to this paragraph, Article 8 of Regulation (EU) No 182/2011, in conjunction with Article 5 thereof, shall apply.

TITLE VI

FINAL PROVISIONS

Article 46

Repeal

1. Regulation (EC) No 1006/2008 is repealed.
2. References to provisions of Regulation (EC) No 1006/2008 shall be construed as references to the provisions of this Regulation.

Article 47

Entry into force

This Regulation shall enter into force on the [...] day following that of its publication in the Official Journal of the European Union.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the European Parliament
The President

For the Council
The President